

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FRANK ALLEN, et al.,	:	CIVIL ACTION NO. 1:04-CV-2297
	:	
Plaintiffs	:	(Judge Conner)
	:	
v.	:	
	:	
SUSQUEHANNA TOWNSHIP SCHOOL DISTRICT,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 10th day of August, 2005, upon consideration of plaintiff's motion to strike (Doc. 42) defendant's motion for summary judgment (Doc. 40) on the ground that it is not accompanied by a certificate of concurrence or non-concurrence or a supporting statement of material facts, as required by Local Rules, see L.R. 7.1, 56.1, and it appearing that the motion for summary judgment (Doc. 40) does not comply with Local Rules, see id., but that any potential prejudice to plaintiff from the violations may be ameliorated by directing defendant to file the identified documents *nunc pro tunc* and granting plaintiff an enlargement of time in which to respond to the motion for summary judgment,¹ see Benjamin v. Peter's Farm Condo. Owners Ass'n, 820 F.2d 640, 642 n.5 (3d Cir. 1987) (noting that motion to strike should be granted only when moving party would be prejudiced absent relief); see also FED. R. CIV. P. 1, 6(b), it is hereby ORDERED that:

¹ This is the second time that defense counsel's noncompliance with procedural rules has necessitated additional motion practice and delayed proceedings in this case. (See Doc. 32). The court expects it to be the last.

1. The motion to strike (Doc. 42) is DENIED.
2. Defendant shall file a certificate of concurrence or non-concurrence and a statement of material facts in support of the motion for summary judgment (Doc. 40) on or before August 16, 2005. See L.R. 7.1, 56.1.
 - a. Failure to file a certificate of concurrence or non-concurrence and a supporting statement of material facts in compliance with this order and applicable procedural rules, see, e.g., L.R. 56.1, will result in the motion for summary judgment (Doc. 40) being deemed withdrawn.
 - b. No enlargements of the time in which to file a certificate of concurrence or non-concurrence and a supporting statement of material facts shall be granted absent exceptional circumstances.
3. Plaintiff shall file a brief in opposition to the motion for summary judgment (Doc. 40), accompanied by a responsive statement of material facts, within fifteen days after the filing of defendant's supporting statement of material facts. See L.R. 7.6, 56.1.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge